

REMARKS

With the cancellation of claim 22 herein, claims 13 to 21 and 23 to 45 are pending in the current application.

It is believed that this Amendment does not raise new issues that would require further consideration and/or search, and also does not raise the issue of new matter. It is also believed and respectfully submitted that this Amendment places the application in better form for appeal by materially reducing or simplifying the issues for appeal.

With respect to paragraph one (1) of the Final Office Action, the drawings were objected to under 37 C.F.R. §1.83(a).

The Office Action asserts that the non-return valve of claim 25 and the reverse siphon of claim 30 are required to be illustrated in the drawings or these features cancelled from the claims. The objections to the drawings are traversed for the following reasons:

It is respectfully submitted that specification page 3, line 20 provides that the present invention may include a valve, such as, for example, a non-return valve or a float roll-over valve, which prevents liquid from entering a line. The specification describes element 7, located in the discussion of Figure 1, as “valves”, via which lines (3a,3b) may be closed. Page 4, lines 33 to 35. Figures 2 to 7, thereafter, further describe element 7 as “float-roll-over valves”. Applicants respectfully submit that a person of ordinary skill in the art would understand, in light of the specification allowing alternative configurations, the use of a non-return valve in place of a float-roll-over valve. The specification has provided, to a person of ordinary skill in the art, a necessary understanding of the subject matter sought to be patented. Applicants submit that a reverse siphon is an inverted U structure with a long and short leg. Applicants further submit that this inverted U structure is understandable by a person of ordinary skill in the art, so that its explicit illustration is not necessary. It is respectfully submitted that the individual features of claims 25 and 30 are ascertainable by a person of ordinary skill in the art. Withdrawal of the objections to the drawings is therefore respectfully requested, for these reasons alone.

As further regards the drawing objections, Applicants note that the drawings were objected to under 37 C.F.R. § 1.83(a) (“Rule 83(a)”), but 37 C.F.R. § 1.83(a) is subject to 37 C.F.R. § 1.81, which only requires a drawing “where necessary for the understanding of the subject matter sought to be patented”. In view of the disclosure, and the explanation regarding the

Figures as provided above, it is respectfully submitted that no other drawing is necessary for understanding the claimed subject matter. It is therefore respectfully requested that the drawings objections be withdrawn in view of the foregoing.

With respect to paragraph three (3) of the Final Office Action, claims 28 to 32 were rejected under 35 U.S.C. 112, first paragraph, as to the written description requirement.

The Final Office Action rejects claim 28 as to the “schematic” arrangement in Figure 1. There is no support in the Code of Federal Regulations or the MPEP for alleging that a “schematic” drawing is not acceptable. Although the rejection may not be agreed with, to facilitate matters, the specification has been amended to eliminate the word “schematic”. Also, the features provided in Figure 1 are consistent with the embodiments of Figures 2 to 5, and the elected claims. It is also respectfully submitted that the feature of a reverse siphon, as described above, is an inverted U structure with a long and short leg, and that a person of ordinary skill in the art would understand such a structure, so that there is sufficient information to a person of skill in the art to construct the reverse siphon, as provided for in claim 30. Also, the features of claim 28 are illustrated in Figure 4. It is therefore respectfully requested that the rejections of claims 28 to 32 under 35 U.S.C. 112, first paragraph, as to the written description requirement.

As further regards the written description requirement, the Office bears the initial burden of presenting “evidence or reasons why persons skilled in the art would not recognize in an applicant’s disclosure a description of the invention defined by the claims.” (See M.P.E.P. § 2163.04 (citing In re Wertheim 541 F.2d 257, 262, 265, 191 U.S.P.Q. 90, 96, 98 (C.C.P.A. 1976))) (emphasis added). The Manual of Patent Examining Procedure also provides that if an examiner rejects a claim based on the lack of a written description, the examiner should “identify the claim limitation not described” and also provide “reasons why persons skilled in the art would not recognize the description of this limitation in the disclosure of the application.” (See id.).

Furthermore, while the specification as originally filed must provide a statutorily sufficient written description of the claimed subject matter to a person having ordinary skill, it does not matter exactly how this is done so long as the written description requirement is satisfied. To determine whether the written description requirement is satisfied, the specification as a whole must be considered. See In re Wright, 9 U.S.P.Q.2d 1649, 1651 (Fed. Cir. 1989) (citing In re Smith, 481 F.2d 910, 914, 178 U.S.P.Q. 620, 624 (C.C.P.A. 1973)).

In view of all of the foregoing, it is respectfully submitted that the Final Office Action's arguments and assertions of paragraph eight (8) do not satisfy the evidentiary and judicial standards discussed above, and it is therefore respectfully submitted that the Office Action has not established even a prima facie written description case as to the present application. It is therefore respectfully submitted that the present application does satisfy the written description requirement of 35 U.S.C. § 112, so that claims 25 to 38 are allowable.

With respect to paragraph four (4), the Final Office Action further rejected claims 18 to 40, 42 and 43 under the second paragraph of 35 U.S.C. § 112 as indefinite.

In particular, it was asserted that there was insufficient antecedent basis for the term "the de-aeration lines" in the rejected claims. Claim 13 as presented now specifically requires the feature of de-aeration lines. Claim 18 depends from claim 13 and therefore provides antecedent basis for the terms "de-aeration lines". Applicants respectfully request withdrawal of the rejection as to claim 18. It is therefore respectfully submitted that the term "the de-aeration lines" in claims 25, 28, 33, 34, 35, 40, 42 and 43 has proper antecedent basis.

The Office Action further rejects claims 29, 33, 40 and 42 for assertedly not providing sufficient antecedent basis for specific features presented in these claims.

Applicants have also amended claims 33, 40 and 42, and it is submitted that the claim 13 as now presented also addresses the rejection of claim 29. Claim 33 has been rewritten to remove the phrase "inside the fuel tank", and claim 40 has been rewritten to provide the feature of "the de-aeration lines". Claim 42 has been rewritten to delete the feature of "inside the fuel tank". Withdrawal of the indefiniteness rejections as to claims 18 to 40, 42 and 43 is therefore respectfully requested.

With respect to paragraph six (6), claims 13 to 19, 21, 33, 43 and 45 were rejected under 35 U.S.C. § 102(b) as anticipated by United States Patent 3,805,829 ("Yamamoto"). With respect to paragraph nine (9), claims 13, 15 to 20, 25, 26, 33, 35 to 39, 42, 43 and 45 were rejected under 35 U.S.C. § 102(e) as anticipated by United States Patent 6,336,466 ("Ganachaud"). With respect to paragraph eleven (11), claims 13 to 19, 21 to 24, 33, 34, 40, 41 and 43 to 45 were rejected under 35 U.S.C. § 102(b) as anticipated by United States Patent 5,72,093 ("Whitley II").

It is respectfully submitted that "Yamamoto", "Ganachaud" and "Whitley II" do not anticipate the rejected claims for the following reasons.

Claim 13 as presented is directed to a collection system for a ventilation/pressure-equalizing system used to aerate and de-aerate a fuel tank of a motor vehicle, and includes a collection arrangement that includes adjacent and separate chambers, in which a first one of the chambers is used as a temporary storage chamber for liquid fuel and is connected to a return line in the fuel tank, the chambers are configured so that for an approximately horizontal alignment of the fuel tank or the ventilation/pressure-equalizing system, liquid fuel does not travel from one of the chambers into the other of the chambers, and in which the liquid fuel that penetrates the ventilation/pressure-equalizing system is collected in the temporary storage chamber and emptiable via the return line.

Claim 13 as presented also now include the features of de-aeration lines configured to connect to the collection arrangement, the de-aeration lines configured to aerate and de-aerate the fuel tank, at least one of the de-aeration lines connected to one of a non-return valve and a float-roll-over valve and wherein the chambers are separated by a vertically aligned wall, the wall having a through hole for the gases or fuel vapors. Support for these features may be found, for example, on page 4, lines 30 to 37 and original claim 22 of the present application.

The “Yamamoto” reference assertedly relates to a fuel leakage prevention device for a motor-vehicle. The “Yamamoto” reference provides an opening 3A through which a “grummet 3” is inserted. An uptake 2 is then connected to the grummet 3 which in turn connects to a cup shaped casing 9 with an attached vent tube 13. The “Yamamoto” reference does not identically describe (or even suggest) the presence of de-aeration lines configured to de-aerate the fuel tank, at least one of the de-aeration lines connected to one of a non-return valve and a float-roll-over valve, since it merely provides a mounting plate 1a to connect the top of a tank 1 to mount the device. The “Yamamoto” reference is silent regarding any connection of uptake 2 to a non-return or float-roll-over valve, and therefore does not identically describe (or even suggest) chambers which are separated by a vertically aligned wall having a through hole for the gases or fuel vapors.

As to the “Ganachaud” reference, it is similarly deficient in not identically describing (or even suggesting) de-aeration lines configured to de-aerate the fuel tank, in which at least one of the de-aeration lines is connected to one of a non-return valve and a float-roll-over valve. The “Ganachaud” reference provides a “capacity” 2 located beneath a check ball 8, wherein a diaphragm 14 is positioned at the bottom of the “capacity” 2. The Office Action asserts that diaphragm 14 is the “return line” of claim 13, but the diaphragm 14 is not connected to one of a

non-return valve and a float-roll-over valve, so that the diaphragm 14 merely allows fluid to leak through the diaphragm 14 under the fluids own weight. As a result, The “Ganachaud” reference does not identically describe (or even suggest) any valve connection as recited in the context of the claimed subject matter. The “Ganachaud” reference also does not identically describe (or even suggest) chambers that are separated by a vertically aligned wall, the wall having a through hole for the gases or fuel vapors.

Finally, the “Whitley II” reference also does not identically describe (or even suggest) de-aeration lines configured to de-aerate the fuel tank, in which at least one of the de-aeration lines is connected to one of a non-return valve and a float-roll-over valve. The Office Action asserts that element 134, a notch, is equivalent to a return line. It is respectfully submitted that the notches 134 are located at a bottom edge of cylindrical wall 128 and are in not in contact or communication with any non-return valves or float-roll-over valves. The “Whitley II” reference merely refers to a notch 134 in cylindrical wall 128 to allow liquid fuel accumulated in compartment 80 to flow back into the volume bounded by the cylindrical wall 128. The “Whitley II” reference, as in Figs. 1 and 1A, only refers to an overflow restrictor 22 directly connected to a fuel tank, without any intervening valves. The “Whitley II” reference therefore does not identically describe (or even suggest) any de-aeration lines configured to de-aerate the fuel tank, in which at least one of the de-aeration lines is connected to one of a non-return valve and a float-roll-over valve

Since the “Yamamoto”, “Ganachaud” and “Whitley II” references do not identically describe (or even suggest) the presence of the features discussed above, including de-aeration lines configured to de-aerate the fuel tank, in which at least one of the de-aeration lines is connected to one of a non-return valve and a float-roll-over valve, claim 13 is allowable.

As to the “Yamamoto” reference, claims 14 to 19, 21, 33, 43 and 45 depend from claim 13 as presented, and are therefore allowable for the same reasons as claim 13 as presented.

As to the “Ganachaud” reference, claims 15 to 20, 26, 33, 35 to 39, 42, 43 and 45 depend from claim 13 as presented, and are therefore allowable for the same reasons as claim 13 as presented.

As to the “Whitley II” reference, claims 14 to 19, 21, 23, 24, 33, 34, 40, 41 and 42 to 45 depend from claim 13 as presented, and are therefore allowable for the same reasons as claim 13 as presented.

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Response T Office Action of 09/30/03

With respect to paragraph eight (8) of the Office Action, claim 20 was rejected under 35 U.S.C. § 103(a) unpatentable over "Yamamoto" et al in view of The "Ganachaud" reference. With respect to paragraph ten (10) of the Office Action, claim 41 was rejected under 35 U.S.C. § 103(a) unpatentable over either "Yamamoto" or The "Ganachaud" reference.

Claims 20 and 41 depend from claim 13 as presented, and are therefore allowable for the same reasons as claim 13. As explained above, both the "Yamamoto" and "Ganachaud" references do not disclose or suggest de-aeration lines configured to de-aerate the fuel tank, in which at least one of the de-aeration lines is connected to one of a non-return valve and a float-roll-over valve. The "Yamamoto" and "Ganachaud" references also do not disclose or suggest a configuration where the chambers are separated by a vertically aligned wall having a through hole for the gases or fuel vapors. It is therefore respectfully submitted that claims 20 and 41 are allowable.

CONCLUSION

In view of the foregoing, it is believed that the objections and rejections have been obviated, and that claims 13 to 21 and 23 to 45 are allowable. It is therefore respectfully requested that the objections and rejections be withdrawn, and that the present application issue as early as possible.

Respectfully submitted,

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